



# LAW 214

## Jurisprudence

S2 Day 2019

*Macquarie Law School*

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## General Information

### Unit convenor and teaching staff

Convenor and lecturer

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6 First Walk, Rm 440

Wednesday 2-4pm

Lecturer

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Lise Barry

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### Credit points

3

### Prerequisites

(18cp at 100 level or above) including LAW115 and (admission to LLB or BAppFinLLB or BALLB or BA-MediaLLB or BA-PsychLLB or BBALLB or BComLLB or BCom-ProfAccgLLB or BEnvLLB or BITLLB or BIntStudLLB or BMediaLLB or BPsych(Hons)LLB or BScLLB or BSecStudLLB or BSocScLLB)

### Corequisites

### Co-badged status

### Unit description

This unit is a philosophically-based introduction to law and legal thought. It has four main objectives. It aims to introduce students to the nature of the Australian legal system; to equip them to think in a theoretical and critical way about the nature of law and legal reasoning; to convey an understanding of some key legal concepts; and to assist them to draw on and apply these reflections in the context of some contemporary legal issues.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Analyse central debates in jurisprudence.

Evaluate the law and legal institutions from a normative perspective.

Apply theoretical knowledge to real-life situations and topical controversies.

Communicate using clear and cogent arguments.

Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.

Develop the ability to build theoretical legal arguments under time pressure.

## General Assessment Information

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Word limits will be strictly applied and work above the word limit will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

### Moderation

The convenor moderates all assessments. All Fail research essays are double marked.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Assignment 1</a>	40%	No	Friday 13 September, 11.59 pm
<a href="#">Take Home Exam</a>	40%	No	08/11/2019
<a href="#">Class Participation</a>	20%	No	Weeks 6 & 11

## Assignment 1

Due: **Friday 13 September, 11.59 pm**

Weighting: **40%**

This assignment will require comprehension and critical analysis of some key readings on the nature of law. The word limit for this assignment is 1,500 words (footnotes and the bibliography

are not included in the word limit). Students should adhere to AGLC3. Further details will be released once the course starts.

On successful completion you will be able to:

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Communicate using clear and cogent arguments.
- Develop the ability to build theoretical legal arguments under time pressure.

## Take Home Exam

Due: **08/11/2019**

Weighting: **40%**

The take-home exam will test critical reasoning skills and comprehension of the set texts. Students will be required to answer four questions. each 500 words in length. Questions will be released on iLearn on 4 November (beginning of week 13). Students will have 5 days to complete the assessment.

The word limit for this assignment is 2000 words. Footnotes and the bibliography are not included in the word limit. Students should abide by AGLC3.

On successful completion you will be able to:

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.
- Communicate using clear and cogent arguments.
- Develop the ability to build theoretical legal arguments under time pressure.

## Class Participation

Due: **Weeks 6 & 11**

Weighting: **20%**

Class participation for this subject will be assessed by TWO multiple choice quizzes, to be taken in your tutorial during weeks 6 & 11. Each quiz will have 10 questions, each worth one mark. There is a total of 10 marks per quiz. You will need to bring a device to class, such as a laptop or smart phone, so you can connect to the iLearn site. The quiz is designed to test your comprehension of the texts set for study and your engagement with the course materials. If you attend class each week, do the readings and listen to the lectures, the quizzes will be very straightforward.

On successful completion you will be able to:

- Participate constructively in discussion and other classroom activities in order to

understand, analyse and critique central debate in jurisprudence and law from a normative perspective.

## Delivery and Resources

### Technology used

This unit will use i-learn and ECHO lectures. Students will be required to use a computer to interact with online research databases and web-based research tools.

### Classes

For current updates, lecture times and classrooms please consult the MQ Timetables website: <http://www.timetables.mq.edu.au>

**There are two pre-recorded one-hour lectures per week (available through ECHO lectures).**

Internal students must attend at least 10 tutorials and submit all assignments.

External students must attend both days of the on-campus-session and submit all assignments.

### Required and recommended resources

#### Prescribed Texts

Denise Meyerson, *Jurisprudence* (Oxford University Press, Melbourne, 2011).

#### Other essential reading

Details available on the i-learn site for LAW214.

#### Supplementary Readings

There is no single text which covers all of the material dealt with in this unit, but the following books will be useful to you if you would like to read more about the topics. They will also help in the writing of your assignments for this unit. All of these books are on reserve in the Macquarie University Library.

S Berns, *Concise Jurisprudence* (Federation Press, Sydney, 1993).

B Bix, *Jurisprudence: Theory and Context* (5th edn, Sweet and Maxwell, London, 2009).

S Bottomley and S Bronitt, *Law in Context* (3<sup>rd</sup> edn, Federation Press, Sydney, 2006).

R Cotterrell, *The Politics of Jurisprudence* (University of Pennsylvania Press, Philadelphia, 1989).

H Davies and D Holdcroft, *Jurisprudence: Texts and Commentary* (Butterworths, London, 1991).

M Davies, *Asking the Law Question* (3<sup>rd</sup> edn, Law Book Company, Sydney, 2008).

R Dworkin, *Taking Rights Seriously* (Duckworths, London, 1977).

R Dworkin, *Law's Empire* (Harvard University Press, Cambridge, Massachusetts, 1986).

L Fuller, *The Morality of Law* (Revised edn, Yale University Press, New Haven and London, 1969).

S Guest, *Ronald Dworkin* (2<sup>nd</sup> edn, Edinburgh University Press, Edinburgh, 1997).

J W Harris, *Legal Philosophies* (2<sup>nd</sup> edn, Butterworths, London, 1997).

H L A Hart, *The Concept of Law* (2<sup>nd</sup> ed, Clarendon Press, Oxford, 1994).

J M Kelly, *A Short History of Western Legal Theory* (Clarendon Press, Oxford, 1992).

D Lloyd, *Lloyd's Introduction to Jurisprudence* (8<sup>th</sup> edn, Sweet and Maxwell, London, 2008).

H McCoubrey and N D White, *Textbook on Jurisprudence* (2<sup>nd</sup> edn, Blackstone Press Ltd, London, 1996).

J G Murphy and J L Coleman, *The Philosophy of Law* (Revised edn, Westview Press, Boulder, San Francisco, and London, 1990).

D Patterson, *A Companion to Philosophy of Law and Legal Theory* (Blackwell, Oxford, 1996).

J G Riddall, *Jurisprudence* (2<sup>nd</sup> edn, Butterworths, London, 1999).

F Schauer, *Thinking Like a Lawyer* (Cambridge, Mass, Harvard University Press, 2009).

R Wacks, *Understanding Jurisprudence* (Oxford University Press, Oxford, 2005).

## Unit Schedule

Week	Lecture	Tutorial	Assessment
1	Introduction to Jurisprudence	Introduction to Jurisprudence	
2	Law and force: Austin vs Hart	Law and force: Austin vs Hart	
3	Contemporary Positivism	Contemporary Positivism	
4	Natural Law Theory	Natural Law Theory	
5	Adjudication I: Formalism vs Purposivism	Adjudication I: Formalism vs Purposivism	
6	Adjudication II: Hart vs Dworkin	Adjudication II: Hart vs Dworkin	In class quiz 1
7	Realism and Critical Perspectives	Realism and Critical Perspectives	Essay due Friday 13 September
Semester Break			

8	Difference	Difference	
9	Rights	Rights	
10	Freedom	Freedom	
11	Inequality	Inequality	In class quiz 2
12	Civil disobedience	Civil disobedience	
13	None	Take home exam	Take home exam: Due Friday 8 November

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway \(https://students.mq.edu.au/support/study/student-policy-gateway\)](https://students.mq.edu.au/support/study/student-policy-gateway). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/study/getting-started/student-conduct>

## Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](#) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

Word limits will be strictly applied.

Referencing should comply with the Australian Guide to Legal Citation unless otherwise stated.

All written assessments require submission through Turnitin.

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](#)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.



## Graduate Capabilities

### Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

#### Learning outcome

- Evaluate the law and legal institutions from a normative perspective.

#### Assessment task

- Assignment 1

### Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

#### Learning outcomes

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.
- Develop the ability to build theoretical legal arguments under time pressure.

#### Assessment tasks

- Assignment 1
- Take Home Exam
- Class Participation

### Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate

and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

## **Learning outcomes**

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.
- Develop the ability to build theoretical legal arguments under time pressure.

## **Assessment tasks**

- Assignment 1
- Take Home Exam

## **Problem Solving and Research Capability**

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

## **Learning outcome**

- Apply theoretical knowledge to real-life situations and topical controversies.

## **Assessment tasks**

- Assignment 1
- Take Home Exam

## **Effective Communication**

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

## **Learning outcomes**

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.
- Communicate using clear and cogent arguments.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.
- Develop the ability to build theoretical legal arguments under time pressure.

## **Assessment tasks**

- Assignment 1
- Take Home Exam

## **Engaged and Ethical Local and Global citizens**

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

## **Learning outcome**

- Evaluate the law and legal institutions from a normative perspective.

## **Assessment task**

- Assignment 1